

they did not engage in any such solicitation or other activities in this state on behalf of the retailer during the preceding 12 months if the statements are provided and obtained in good faith.

(3) An agreement for advertising services with a person or persons in this state, to be delivered on television, radio, in print, on the Internet, or by any other medium, is not an agreement described in Subsection (c)(1) above, unless the person entering the agreement with the retailer also directly or indirectly solicits potential customers in this state for the retailer through use of flyers, newsletters, telephone calls, electronic mail, blogs, microblogs, social networking sites, or other means of direct or indirect solicitation specifically targeted at potential customers in this state. For purposes of this subsection, an agreement for services based upon commissions or other consideration conditioned upon completed sales in this state is not an agreement for advertising services.

(4) This Subsection shall apply without regard to the date the retailer and the resident entered into the agreement described herein.

(5) The twelve months before the effective date of this Act are included as part of the preceding twelve (12) months for purposes of this Subsection (c).

(d) For purposes of this Section, a retailer and another person are considered related parties if they meet any one of the following tests:

(1) the retailer and one or more persons are component members of the same controlled group of corporations under section 1563 of the Internal Revenue Code; or

(2) the retailer is a related taxpayer to the other person under the provisions of section 267 of the Internal Revenue Code; or

(3) the retailer and the other person is a corporation, limited liability company, partnership, estate, or trust, and such corporation, limited liability company, partnership, estate, or trust and its shareholders, members, partners, or beneficiaries own in the aggregate directly, indirectly, beneficially, or constructively at least 50 percent of the profits, capital, stock, or value of the other entity or both entities.

(e) The definitions in this Section are only applicable to the taxes levied under this Act.

(f) Whether or not a retailer is engaged in business in this state, such retailer shall be subject so sales [or use] tax collection duties in this state if federal law permits this state to impose such duties on the retailer.

(fg) The provisions of this Section are severable. If any provision of this Section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(gh) This statute applies to sales made on or after [effective date].

*States can insert language within the brackets to correspond to their particular taxing schema.